

Cases on the Law of Insurance (Book Review)

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"One of the flood seasons is upon us. Men are insisting, as perhaps never before, that law shall be made true to its ideal of justice. Let us gather up the driftwood, and leave the waters pure."
"those provisional and tentative formulas, those reservations and conditions, those shadings and softenings, by which judges, made wary by many an ambush, have saved for hours of extremity an avenue of retreat."

No modern writing so thoroughly combines traditional reverence with an openminded questioning of existing rules and dogmas. In one thing this great sceptic has abiding faith: in the power of man by character and will, by courage and devoted work, to overcome the forces of inertia and indifference. Eloquent is his word to the becoming lawyer of the need for eternal vigilance:

"The heroic hours of life do not announce their presence by drum and trumpet, challenging us to be true to ourselves by appeals to the martial spirit that keeps the blood at heat. Some little, unassuming, unobtrusive choice presents itself before us slyly and craftily, glib and insinuating, in the modest garb of innocence. To yield to its blandishments is so easy. The wrong, it seems, is venial. Only hyper-sensitiveness, we assure ourselves, would call it a wrong at all. These are the moments when you will need to remember the game that you are playing. Then it is that you will be summoned to show the courage of adventurous youth."

OSMOND K. FRAENKEL.

New York, N. Y.

CASES ON THE LAW OF INSURANCE. By William Reynolds Vance. St. Paul: West Publishing Co., 1930, pp. 1020.

More than sixteen years have elapsed since Professor Vance compiled the first edition of "Cases on Insurance." The intervening years have witnessed a tremendous growth in the business of insurance not only in volume but in the variety of risks covered. For years a close ally of "big business," and now, more than ever, it has become intimately associated with all commercial enterprise however small. It occupies a prominent and important position in the economic structure of the nation.

This rapid expansion has, quite naturally, been accompanied or closely followed by increased litigation in which courts have been called upon to decide many novel legal problems and we find that numerous significant changes have been effected in the law not only by juristic expressions but by legislative enactments.

To the extent possible in a case book, where pains have been taken to keep it compact and a practical class-room tool, the author has endeavored to give us an up-to-date book embodying all the old principles and the law as it now stands.

The new edition is some 250 pages longer than the first volume and the bulk of the cases which he has collected deal principally with the practical questions which arise from everyday occurrences. Several early English cases depicting merely the historical background of the insurance treaty have been omitted so that greater space might be allowed for illustrating the changed conditions and rules. Unnecessary repetition has been avoided by a most careful selection of material so that only those cases which clearly define a legal principle are included in the collection and these are reduced to skeleton form by eliminating from the opinions all lengthy discourse not essential to a clear understanding of the point involved.

The introductory chapter contains a brief historical sketch, an excellent outline of different classes of risks and several good examples of features which distinguish insurance from other contingent obligations such as contracts of guaranty, etc.

There follows in rapid succession a comprehensive analysis of the regulations imposed by States upon the insurance business, cases of insurable interest, the making of the contract, premiums, and various matters dealing with risks, particular emphasis being placed upon warranties.

The subject of waiver and estoppel is carefully analyzed, a process so seldom followed in treating a topic recognized as a very technical branch of insurance law. The two terms are often confused, a confusion which is aided by the practice of many courts in continually using the expressions interchangeably. When we add to this the fact that decisions of our own Court of Appeals on many questions involving these principles are incapable of reconciliation and that other courts are hopelessly in conflict in the determination of similar questions, the difficulties which beset the student may easily be surmised. Professor Vance has treated this part of his subject very ably and has done much to clarify the situation.

Considerable space is allotted to cases dealing with fire insurance and the many problems which arise under this type of policy. Life insurance also has been treated at length.

The final chapter gives us a glimpse of various kinds of insurance and the manner in which different courts construe the respective policies. This is adequate in most respects although some elaboration upon the subject of reinsurance would have been desirable. The author gives but one case on this topic and this, of course, does not give an insight into the fundamentals of a most important branch of insurance law. There is an excellent appendix of twenty-two pages containing a set of forms which are both helpful and instructive.

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